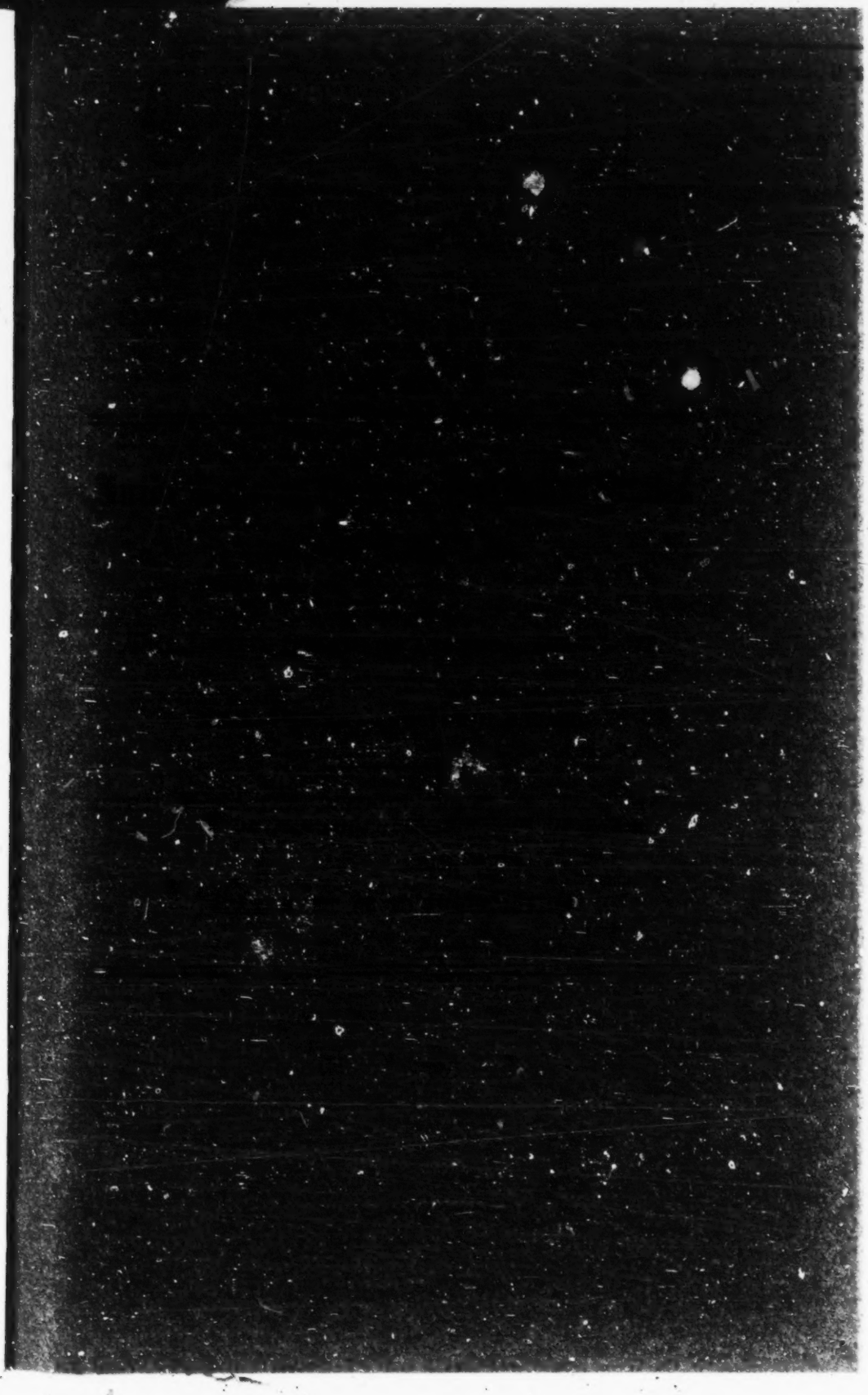

In the District Court of the United States for the Southern District of Texas, Houston Division

Criminal No. 7354

UNITED STATES OF AMERICA, PLAINTIFF

v.

H. E. HINES, NEAL POWERS, AND RENE ALLRED, DEFENDANTS

STATEMENT OF JURISDICTION

Filed January 28, 1939

In compliance with Rule 12 of the Supreme Court of the United States, as amended, the United States of America submits herewith its statement showing the basis of the jurisdiction of the Supreme Court to entertain an appeal in this cause:

A. The statutory jurisdiction of the Supreme Court to review by direct appeal the judgment complained of is conferred by Title 18, Section 682, of the United States Code, otherwise known as the "Criminal Appeals Act," and by Section 345, Title 28, of the United States Code.

B. The statutes of the United States, the construction of which is involved herein, are Sections 3, 6, and 13 of the Connally Act of February 22,

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1935, c. 18, 49 Stat. 30, 31–33 (U. S. C., Title 15, Secs. 715b, 715e, and 715*l*) extending the duration of the Connally Act and Section 37 of the Criminal Code (U. S. C., Title 18, Sec. 88).

Section 3 of the Connally Act (U. S. C., Title 15, Section 715b) is as follows:

> The shipment or transportation in interstate commerce from any State of contraband oil produced in such state is hereby prohibited. For the purposes of this section contraband oil shall not be deemed to have been produced in a State, if none of the petroleum constituting such contraband oil, or from which it was produced or derived, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of such State or under any regulation or order, prescribed thereunder by any board, commission, officer, or other duly authorized agency of such State.

Section 6 of the Connally Act (U. S. C., Title 15, Sec. 715e) is as follows:

> Any person knowingly violating any provision of this Act or any regulation prescribed thereunder shall upon conviction be punished by a fine of not to exceed $2,000 or by imprisonment for not to exceed six months, or by both such fine and imprisonment.

Section 13 of the Connally Act (U. S. C., Title 15, Sec. 715*l*) is as follows:

This Act shall cease to be in effect on June 16, 1937. The Act of June 14, 1937, extending the Connally Act (U. S. C., Title 15, Sec. 715*l*) is as follows:

> To continue in effect until June 30, 1939, the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes," approved February 22, 1935.
>
> *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 13 of the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State Law and for other purposes," approved February 22, 1935, is amended by striking out "June 16, 1937" and inserting in lieu thereof "June 30, 1939."

Section 37 of the Criminal Code (U. S. C., Title 18, Sec. 88) provides:

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the.

object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000 or imprisoned not more than two years or both.

C. The judgment of the District Court sought to be reviewed was entered on January 4, 1939, and an application for appeal was filed on January 28, 1939, and is presented to the District Court herewith, to wit, on this the 28 day of January 1939.

The Indictment in this case, returned on September 17, 1938, is in ten counts, one of which is based upon Section 37 of the Criminal Code, and nine of which are based upon the Act of February 22, 1935, c. 18, 49 Stat. 30, as amended by the Act of June 14, 1937, c. 35, 50 Stat. 257 (U. S. C., Title 15, Sections 715–7151). The first count alleges a conspiracy by the defendants to violate Section 3 of the Act of February 22, 1935, 49 Stat. 31, as amended, by transporting in interstate commerce, contraband oil produced, transported, and withdrawn from storage in excess of the amounts permitted to be produced, transported, and withdrawn from storage under the laws of the State of Texas and the regulations made pursuant thereto. Each of the remaining counts of the indictment alleges that the defendants did transport in interstate commerce contraband oil produced, transported, and withdrawn from storage in excess of the amounts permitted to be produced, transported, and withdrawn from storage by the laws of the State of Texas, and the regulations pursuant thereto.

Demurrers to the indictment and motions to quash were filed by the defendants Neal Powers and Rene Allred and were sustained by the District Court. The Court based its decision solely upon the ground that the first Connally Act of February 22, 1935, was a temporary Act expiring under the terms of Section 13 thereof on June 16, 1937, and that since the Act of June 14, 1937, extending the duration of the first Act to June 30, 1939, contained no saving clause, violations of the 1935 Connally Act could not be punished after June 16, 1937, the expiration date fixed by the first Connally Act.

The question decided by the District Court is a substantial and important one and has not hitherto been settled by a decision of the Supreme Court of the United States. The principal vice of the decision of the District Court is that it treated the Connally Act of 1935 as having expired on June 16, 1937, prior to the indictment herein, notwithstanding that on June 14, 1937, Congress extended the life of the 1935 Act until June 30, 1939.

Here there was no attempted prosecution of the offenses involved subsequent to the expiration of the statute. Since the statute has not expired there is no basis for the application of the rule, relied upon by the court below, that after the expiration of a law no punishment may be inflicted for violations committed while it was in force, unless special provision is made therefor.

The rule is also settled that where a statute is amended by substantially reenacting it, offenses oc-

curring prior to amendment may be prosecuted thereafter. See *Sage* v. *State*, 127 Ind. 15; *People* v. *Schoenberg*, 161 Mich. 88; *Hair* v. *State*, 16 Nebr. 601; see also *Jones* v. *State*, 72 Tex. Cr. App. 504; *Britton* v. *State*, 101 Miss. 574; *Whatley* v. *State*, 46 Fla. 145. While it is true, as the court below stated that decisions enunciating the above rule did not involve temporary Acts, the underlying principle would seem equally applicable to such statutes.

If the 1937 Act extending the Connally Act be construed as having by its terms repeated Section 13 of the 1935 Connally Act, the provisions of R. S. Section 13 (U. S. C., Title 1, Sec. 29) permit a construction which would sustain the present indictment.

That section provides that:

> The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture or liability.

In any event, it may not necessarily follow that prosecution under the conspiracy count would be precluded even though the substantive counts are not sustainable, since the conspiracy count is based upon a statute permanent in nature (Section 37, Criminal Code; U. S. C., Title 18, Sec. 88).

The following decisions are believed to sustain the jurisdiction of the Supreme Court: *United States* v. *Heinze,* 218 U. S. 532; *United States* v. *Hastings,* 296 U. S. 188; *United States* v. *Bitty,* 208 U. S. 393; *United States* v. *Keitel,* 211 U. S. 370. Appended hereto is a copy of the opinion of the Court filed on January 4, 1939.

Respectfully submitted.

ROBERT H. JACKSON,
Solicitor General.

DOUGLAS W. MCGREGOR,
United States Attorney.

[Indorsed:] Filed January 28, 1939.

L. C. MASTERSON, *Clerk.*
By L. M. BERLY, *Deputy.*

In the District Court of the United States for the Southern District of Texas, Houston Division

Cr. No. 7354

UNITED STATES OF AMERICA, PLAINTIFF

v.

H. E. HINES, NEAL POWERS, RENE ALLRED, DEFENDANTS

JANUARY 4, 1939

Wm. W. Barron, Special Assistant to the Attorney General, Washington, D. C.; for United States of America.

E. A. Simpson, of Amarillo, Texas; Elbert Hooper, of Austin, Texas; Robert E. Cofer, of Austin, Texas; John D. Cofer, of Austin, Texas; Myron G. Blalock, of Marshall, Texas; Jack Blalock, of Houston, Texas; and Clarence Lohman, of Houston, Texas; for Defendants Neal Powers and Rene Allred.

KENNERLY, *District Judge:* This is a case arising under an Act of Congress approved and effective February 22, 1935, and expiring June 16, 1937, regulating the Interstate Transportation of Petroleum Products, and generally known as the Connally Act (49 Stat. 30, Sections 715 to 715 (1) of Title 15, U. S. C. A.), and an Act of Congress approved

and effective June 14, 1937, continuing the Connally Act in force until June 30, 1939 (50 Stat. 257, Sections 715 to 715 (1) of Title 15, U. S. C. A.). For convenience, the Act of February 22, 1935, is referred to as the First Connally Act or as the First Act, and the Act of June 16, 1937, as the Second Connally Act or the Second Act.

This is the third criminal prosecution in this Court under such Acts. In the first case (No. 6894, *United States* v. *Gibson et al.*), the Indictment was filed against a large number of defendants, and the case disposed of as to all except three or four of them while the First Act was still in effect. As to the remaining three or four defendants, it was dismissed by the Government after the Second Act became effective. In the second case (No. 7016, *United States* v. *Gibson et al.*), the Indictment was filed against several defendants after the Second Act became effective and all defendants without questioning the Indictment entered pleas of guilty except one, and the case was dismissed by the Government against that one.

In this case, Defendants Allred and Powers are charged by Indictment filed September 17, 1938, with Conspiracy (Section 88, Title 18, U. S. C. A.) to violate such Acts and with violations of such Acts, and have demurred to and moved to quash and dismiss the Indictment, and this is a hearing on such Demurrer and Motion.

1. Defendants say that the particular thing or things claimed to have been done by them are not

so set forth in the Indictment as to inform them of the nature and character of the charge against them, in that while they are charged under such Acts with conspiring to transport and transporting in interstate commerce contraband oil within the meaning of such Acts, i. e., petroleum produced, transported, or withdrawn from storage in violation of the Laws of Texas and the regulations and orders of the Railroad Commission of Texas, the Indictment does not set forth the particular Law, Regulation, or Order violated and does not show such Law, Regulation, or Order to have been valid. And that the Indictment does not set forth the amount of oil so produced, where and by whom produced, the circumstances of production, etc.

The Conspiracy Count sets forth the names of the alleged conspirators (so far as known to the Grand Jury), the time during which the conspiracy existed, the plan to transport contraband oil in interstate commerce, i. e., from the Conroe field in Montgomery County, in the State of Texas, by a route named to Marcus Hook, in the State of Pennsylvania, the manner in which such oil was or was to be gathered preparatory to transportation, and the property or lease on which such oil, or some of it, was to be and was produced. It is set forth that the conspiracy was formed:

> to commit drivers, various, and sundry offenses against the United States of America, to wit:
>
> (a) To unlawfully and knowingly violate the laws of the United States, in particular

an Act of Congress approved February 22, 1935, being Public, No. 14, 74th Congress, and entitled:

"An Act to regulate Interstate and Foreign Commerce in Petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of the State laws and for other purposes" (as amended) by producing, transporting, and withdrawing from storage petroleum, which, or a constituent part of which, was produced, transported, and withdrawn from storage in excess of the amounts permitted to be produced, transported, and withdrawn from storage under the laws of the State of Texas, and under the regulations and orders prescribed thereunder by the Railroad Commission of the State of Texas, and its officers, by producing oil in excess of the allowed oil, as provided by the orders of the Railroad Commission, etc.

There are set forth 45 separate and distinct Overt Acts.

The Substantive counts in the Indictment each sets forth the date of the alleged offense, the transportation of contraband oil in Interstate Commerce, i. e., from Conroe Oil Field in Montgomery County, in Texas, to Marcus Hook, in the State of Pennsylvania, the quantity transported, and that such oil, or a constituent part thereof:

was produced, transported, and withdrawn from storage in excess of the amounts per-

> mitted to be produced, transported, and withdrawn from storage, under the laws of the State of Texas, and the regulations and orders prescribed by the Railroad Commission of the State of Texas, a duly authorized agency of such State.

On demurrer and motion to quash the Indictment and on these particular complaints urged against it, I think the Indictment must be sustained. Whether Defendants may require the Government, by Bill of Particulars, to be more specific with respect thereto is not before me.

It is clear also that the Overt Acts in the Conspiracy Count are sufficient. It need not be shown in the Indictment, as Defendants contend, in what manner such Overt Acts were connected with the alleged conspiracy, nor is it necessary that such acts be unlawful within themselves.

It is likewise clear that the Indictment, both in the Conspiracy Count and in the Substantive Counts, sufficiently sets forth that Defendants knowingly did the different acts and things they are charged with doing.

2. Defendants also contend that the Acts apply to Oil, etc., produced prior to their enactment, and not to that thereafter produced.

This question was before the Court and disposed of, and I think correctly disposed of, in *United States* v. *Gibson et al.*, decided May 21, 1937. It was there said:

> It is also said that the Connally Act is only applicable to oil produced, etc., before

the effective date of such Act (February 22, 1935), and in violation of Laws and Regulations of Texas in existence and in force prior to such effective date (February 22, 1935).

The portion of Section 715b under which the Indictment is drawn is as follows:

"The shipment or transportation in interstate commerce from any State of contraband oil produced in such State is hereby prohibited."

Contraband Oil is defined by Section 715a as follows:

"The term 'contraband oil' means petroleum which, or any constituent part of which, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of a State or under any regulation or order prescribed thereunder by any board, commission, officer, or other duly authorized agency of such State, or any of the products of such petroleum."

And is further defined in Section 715b:

"For the purposes of this section contraband oil shall not be deemed to have been produced in a State if none of the petroleum constituting such contraband oil, or from which it was produced or derived, was produced, transported, or withdrawn from storage in excess of the amounts permitted to be produced, transported, or withdrawn from storage under the laws of such State or under any regulation or order prescribed thereunder by any board, commission, offi-

cer, or other duly authorized agency of such State."

It is plain that what is prohibited is transportation in Interstate Commerce of contraband oil produced both before and after the effective date of the Act, and under Laws and Regulations in existence and in force both before and after such effective date.

3. Defendants bring forward many contentions with respect to the constitutional validity of the Acts. In *President of the United States* v. *Artex Refineries Sales Corporation*, 11 Fed. Supp. 189, this Court said:

> Defendants, by their motion to dismiss, attack the constitutional validity of the Connally Act. I think that question must be regarded as settled in this (Fifth) circuit against defendants' contention by the ruling of the Circuit Court of Appeals, in passing upon the validity of Section 9 of the National Industrial Recovery Act (Section 709, Title 15, U. S. C. A.), in the Ryan and Panama Cases (*Ryan* v. *Amazon Petroleum Corporation*, 71 F. (2d) 1, 2; *Ryan* v. *Panama Refining Co.*; 71 F. (2d) 8), which ruling this court deems it proper to follow.

Several subsequent decisions support this view. I adhere to the ruling there made and uphold the constitutional validity of both Acts as against the contentions of Defendants now made.

4. Count One of the Indictment charges a conspiracy to violate such Acts beginning September 4, 1935, and existing until March 15, 1937, and the

Substantive Counts charge violations of such Acts on and between November 4, 1935, and March 20, 1936. All are alleged to have been between September 4, 1935, and March 15, 1937, at a time when the production, transportation, etc., of petroleum oil was controlled and regulated in Texas by Title 102 of Vernon's Civil Statutes of Texas (Texas Revised Civil Statutes of 1925 and Amendments), and particularly Articles 6049c and 6049d of Vernon's Statute regarding Proration (Act of 44th Texas Legislature of 1935, Ch. 76, p. 180), Section 20 of which provided that the provisions of such Act should end and terminate September 1, 1937.

The 45th Texas Legislature in 1937 passed an Act providing that the provisions of the Act of 1935 should end and terminate September 1, 1939.

Defendants say that this Indictment and this prosecution under the Connally Acts must fall because neither in the Texas Act of 1935 nor in the Texas Act of 1937 is there to be found a saving clause as to violations of or penalties arising under the Texas Act of 1935, and that if there be a saving clause in the Texas Act of 1937, it is retroactive, etc. The questions are interesting ones, and perhaps serious ones, but in view of the next question which Defendants raise and the disposition thereof, it does not seem necessary to decide them.

While the Indictment is drawn under both the First Connally Act (in force from February 22, 1935, to June 16, 1937) and the Second Connally

Act (in force from June 14, 1937, to June 30, 1939), it clearly appears that all violations charged against Defendants are of the First Act.

Defendants contend that since neither the First Act nor the Second Act contains a saving clause, and the Second Act is silent as to the Indictment and prosecution of persons charged with violating the First Act, Defendants cannot, since the expiration of the First Act, be lawfully prosecuted for violation thereof, and that the Indictment should be quashed and the case dismissed.

The general and well-settled rule is stated in *The Irresistible,* 7 Wheat. (U. S.) 551; 5 L. E. 520 [Italics mine]:

> This is an appeal from a sentence of the circuit court of the United States for the district of Maryland, dismissing an information filed in that court against the brig La Irresistible, as forfeited, under the acts of congress made for the preservation of the neutrality of the United States. The offense charged in the information was committed under the act of 1817, and the only question is whether the information can be sustained after the time when that act would have expired by its own limitation?
>
> The act was to continue in force two years after the 3d of March 1817. On the 20th of April 1818, congress passed an act making further provision on the same subject, which repealed all former acts on that subject, and among these the act of 1817, and annexed to the repealing clause the following proviso,

"Provided, nevertheless, that persons having offended against any of the acts aforesaid may be prosecuted, convicted, and punished, as if the same were not repealed, and no forfeiture heretofore incurred by a violation of any of the acts aforesaid shall be affected by such repeal." The obvious construction of this clause is, that the power to prosecute, convict, and punish offenders against either of the repealed acts remains as if the repealing act had never been passed. It does not create a power to punish, but preserves that which before existed. *Now, it is well settled, that an offence against a temporary act cannot be punished, after the expiration of the act, unless a particular provision be made by law for the purpose.*

See also *U. S.* v. *Tynan,* 11 Wallace 88, 20 L. E. 153; *Yeaten* v. *U. S.,* 5 Cranch 281, 3 L. Ed. 101.

The question for determination is whether particular provision has been made by law for the indictment and prosecution of persons who may have violated the First Act, which expired as stated June 16, 1937.

The Second Act is as follows:

AN ACT To continue in effect until June 30, 1939, the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes," approved February 22, 1935.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 13 of the Act entitled "An Act to regulate interstate and foreign commerce in petroleum and its products by prohibiting the shipment in such commerce of petroleum and its products produced in violation of State law, and for other purposes," approved February 22, 1935, is amended by striking out "June 16, 1937" and inserting in lieu thereof "June 30, 1939."

Approved, June 14, 1937.

As Defendants insist, it is silent on the question of the prosecution of those who may have violated the First Act. It simply changes the date of expiration of the First Act from June 16, 1937, to June 30, 1939. Those who violated the First Act were only guilty of a misdemeanor. It was passed in aid of the laws of the States regulating a perfectly legitimate business—the production of petroleum oil. It was by its own terms temporary, indicating that changing conditions in the production of petroleum oil, or changes in the laws of the States regulating such production, or other reason would make it in the public interest for it to terminate. There were no provisions therein for the prosecution after its expiration of those who had violated it before such expiration.

The last violation of the First Act, as charged in the substantive counts of the Indictment, is alleged to have occurred March 20, 1936, more than

a year before the expiration date of the First Act, more than a year before the effective date of the Second Act, and nearly two and one-half years before the filing of the Indictment. The Indictment was filed nearly one and one-half years after the alleged termination of the Conspiracy charged in Count One.

Viewing the matter from all standpoints, I think it must be held that there is and can be no certainty that Congress, by passing the Second Act, intended to preserve the right of the Government to prosecute violations of the First Act.

But, citing *Schench* v. *United States,* 249 U. S. 47, 63 L. Ed. 473, and other cases, the Government insists that the mere passage of the Second Act is sufficient evidence of the intent of Congress that those who had violated the First Act should be prosecuted. I find no case that it seems to me goes so far. The most that can be said with respect to the Second Act is that it provides for the prosecution of violations occurring after its effective date (June 14, 1937) and prior to the date of its expiration (June 30, 1939). *Kring* v. *State of Missouri,* 17 Otto, 221, 107 U. S. 231, 27 L. Ed 509, 2 S. Ct. 451. *Murray* v. *Gibson,* 15 How. (U. S.), 421, 14 L. Ed. 755. *Brewster* v. *Gage,* 280 U. S. 338, 74 L. Ed. 457, 463. *United States* v. *St. Louis, S. F. & T. R. Co.,* 270 U. S. 1, 70 L. Ed. 435. Russell 1. *United States,* 278 U. S. 181, 73 L. Ed. 255. *Chew Heong* v. *United States,* 112 U. S. 536, 28 L. Ed. 770.

The Government also says that Section 29, Title 1, U. S. C. A., provides the necessary provision respecting prosecutions of violations of the First Act. This reads as follows [italics mine]:

> The *repeal* of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability.

An examination of the common law rule, and of the history of this section and its wording, is convincing that it has no application to temporary Acts such as was the First Act, but only to *repeals*. There must be a plain provision with respect to Temporary Acts. Nothing appears in *Great Northern Railway Co.* v. *United States*, 208 U. S. 459, 52 L. Ed. 573; *Hertz* v. *Woodman*, 218 U. S. 212, 54 L. Ed. 1005; and other cases cited by the Government, contrary to this view, and there is much to be found in *The Irresistible*, 7 Wheat. (U. S.) 551, 5 L. Ed. 520; *United States* v. *Curtiss-Wright Export Corp.*, 299 U. S. 304, 81 L. Ed. 255; *United States* v. *Curtiss-Wright Export Corp*, 14 Fed. Supp. 230; *Missouri-Pac. R. Co.* v. *United States*, 16 Fed. Supp. 752 (D. C.; E. D. Mo.; Three Judge Court); *South Carolina* v. *Gaillard*, 101 U. S. 433, 25 L. Ed. 937; *Baltimore & Pacific R. R. Co.* v.

Grant, 98 U. S. 398, 25 L. Ed. 231; *National Exchange Bank* v. *Peters*, 144 U. S. 573, 36 L. Ed. 545; *Sherman* v. *Grinnell*, 120 U. S. 679, 31 L. Ed. 278; *Gurnee* v. *County of Patrick*, 137 U. S. 145, 34 L. Ed. 601; *U. S.* v. *Chambers*, 291 U. S. 217, 78 L. Ed. 763, 54 S. Ct. 434; *Moore* v. *United States*, 85 Fed. 765, 29 C. C. A. 269; *Federal Land Bank* v. *United States Bank*, 13 Fed (2d) 36; *United States* v. *Reisinger*, 128 U. S. 403, 32 L. Ed. 480; and *Great Northern R. Co.* v. *United States*, 208 U. S. 452, 52 L. Ed. 567, cited by Defendants to support this view.

The Government also takes the position that the Second Act is an amendment of the First Act and cites *Sage* v. *State*, 127 Ind. 15, 26 N. E. 667; *People* v. *Schoenberg*, 161 Mich. 88, 125 N. W. 779; *Hair* v. *State*, 16 Nebr. 601, 21 N. W. 464; *Jones* v. *State*, 72 Tex. Cr. App. 504, 163 S. W. 81; *Britton* v. *State*, 101 Miss. 574, 58 So. 530; *Whatley* v. *State*, 46 Fla. 145, 35 S. 80; and other cases, holding generally that an amendment to a statute which is a substantial reenactment thereof does not prevent prosecutions of violations of the Amended Statute. The position is a strong one, but I fail to discover in that line of cases anything akin to the situation we have here of an Act of Congress, not permanent, but temporary, being amended by a Second Act which changes its expiration date, but is silent on the subject of the prosecution of previous violations of the Amended Act.

The First Connally Act having by its own terms expired June 16, 1937, and there now being no provision for the indictment and prosecution of those who violated it while it was in effect, I think Defendants' Demurrer to the Indictment and their Motion to Quash the Indictment must for that reason be sustained and the case dismissed.

T. M. KENNERLY,
Judge Presiding.

[Endorsements:] Cr. No. 7354. In the District Court of the United States For the Southern District of Texas, Houston Division, *United States of America, Plaintiff,* versus *M. E. Hines, Neal Powers, Rene Allred, Defendants.* MEMORANDUM OF COURT, SUSTAINING DEFENDANTS' DEMURRER TO THE INDICTMENT AND MOTION TO QUASH THE INDICTMENT. Filed 4 day of Jan. 1939. L. C. Masterson, Clerk; By L. M. Berly, Deputy.

U. S. GOVERNMENT PRINTING OFFICE: 1939